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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

In Re Bard IVC Filters Products  
Liability Litigation

No. MD-15-02641-PHX-DGC

**PLAINTIFF'S REPLY IN SUPPORT OF  
HER MOTION TO PERMIT  
PLAINTIFF DEBRA TINLIN TO  
APPEAR IN COURT AND PROVIDE  
TESTIMONY BY  
CONTEMPORANEOUS ELECTRONIC  
TRANSMISSION FROM ANOTHER  
LOCATION**

(Assigned to the Honorable David G.  
Campbell)

**(Tinlin Bellwether Case)**

Oral Arguments Requested

Plaintiffs, by and through counsel undersigned, hereby submit this Reply in support of her Motion to Permit Plaintiff Debra Tinlin to Appear in Court and Provide Testimony by Contemporaneous Electronic Transmission from Another Location.

Apparently, there is not a dispute that Debra Tinlin should be allowed to provide testimony by contemporaneous electronic transmission from another location. Further, Plaintiffs agree that appropriate safeguards should be implemented to accomplish her testimony. Although Plaintiffs agree that Mrs. Tinlin should be alone in the room when testifying, Plaintiffs also believe that she should have her own counsel present in the

1 courthouse. Further, while Defendant has requested the right to have counsel for Bard  
2 present in the courthouse, Plaintiffs request that there be no contact between defense  
3 counsel and Mrs. Tinlin at any time before, during or after the testimony.

4 Plaintiffs also agree that documentary evidence be marked and provided to Plaintiff  
5 and counsel in advance of Plaintiff's testimony. In addition, Plaintiffs will be responsible  
6 for costs associated with the remote testimony and participation. However, Plaintiffs  
7 request that the costs should be treated as taxable costs pursuant to Fed. R. Civ. P. 54(d)(1).

8 At this time, it is not clear to what extent Plaintiff's filter-related medical  
9 complications contribute to her inability to travel or have aggravated other medical  
10 conditions.

11 Plaintiff's medical expert, Derek Muehrcke, M.D., has determined that the Bard  
12 Recovery IVC filter has caused medical conditions which require follow up care.

13  
14 Mrs. Tinlin's post open heart problems will require life-long  
15 follow up. It is very likely her tracheomalacia, respiratory  
16 compromise/dysfunction, and shortness of breath will  
17 progress. She is now at risk for cardiac arrhythmias, cardiac  
18 failure and recurrent diaphragm hernias, and she has anxiety  
19 about her diaphragm hernia recurring. She will require semi-  
20 annual surveillance from a pulmonologist to monitor her  
21 shortness of breath from the tracheomalacia and diaphragm  
22 injuries. She will require semi-annual cardiology and cardiac  
23 surgery follow ups with chest CT scans, echocardiograms, and  
24 EKGs to monitor for persistent sternal non-union,  
25 arrhythmias, endocarditis, and cardiac dysfunction as a result  
26 of the multiple incisions made into her heart during the  
27 unconventional open-heart retrieval of her IVC filter  
28 fragment. Moreover, Mrs. Tinlin has three more filter struts  
which have embolized to her lungs.

\* \* \*

25 Derek Muehrcke, M.D., FACS; Expert Report regarding Debra Tinlin (marked with page  
26 numbers and attached to his January 11, 2019 deposition as Exhibit 7), a copy of the  
27 relevant page of which is attached hereto as Exhibit A.

1 As noted above, whether these filter related conditions contribute to Plaintiff's  
2 travel restrictions remain unclear. Therefore, Plaintiffs believe that any instruction  
3 regarding Debra Tinlin's remote testimony and absence from trial should avoid any  
4 inaccurate medical conclusions. Plaintiffs propose the instruction states "Debra Tinlin's  
5 doctors have advised her not to travel due to medical conditions."

6 As far as Debra Tinlin's participation in other aspects of the trial, Plaintiffs request  
7 that Debra Tinlin have the option to observe any aspect of the trial deemed necessary by  
8 her and counsel. This can be done without Debra Tinlin appearing on camera other than  
9 for her own testimony and perhaps in the beginning for purposes of introducing her to the  
10 panel prior to jury selection.

11 RESPECTFULLY SUBMITTED this 20th day of March, 2019.

12 BEUS GILBERT, PLLC

13 By: /s/ Mark S. O'Connor

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 20th day of March, 2019, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

/s/Jessica Gallentine